

### C.C.R.B CASE CLOSING FORM

Investigator assigned: <b>LATON</b>		Team: <b>5</b>	CCRB#: <b>9803448</b>	<input checked="" type="checkbox"/> Force <input checked="" type="checkbox"/> Discourtesy <input type="checkbox"/> Abuse <input checked="" type="checkbox"/> O.L. <input type="checkbox"/> Injury
Date of incident: <b>8/2/98</b>	Time of incident: <b>5:00 PM</b>	Location of incident: <b>Prospect Park, 78th precinct</b>	Pct. of occurrence: <b>078th</b>	Date S.O.L. Expires: <b>02/02/00</b>
Date reported: <b>8/4/98</b>	Time reported: <b>1:59 PM</b>	To whom/where/how reported: <b>Complainant called 911.</b>		
Complainant: <b>§ 87(2)(b)</b>		Home address: <b>§ 87(2)(b)</b>		
Victim(s): <b>§ 87(2)(b)</b>		Home address: <b>§ 87(2)(b)</b>		
Witness(es): <b>§ 87(2)(b)</b>		Home address: <b>§ 87(2)(b)</b>		
Subject officer(s) (include rank):  <b>PO Dennedy LT Pearson</b>		Shield:  <b>26928</b>	Tax:  <b>918640 865145</b>	Command:  <b>068 069</b>
Witness officer(s) (include rank):		Shield:	Tax:	Command:
Allegation(s) by letter: A:) PO Dennedy used offensive language when he called <b>§ 87(2)(b)</b> a, "Nig," or "Nigger," and when he said, "That's what's wrong with you people..." in violation of Patrol Guide Procedure 104-01  B:) PO Dennedy abused his authority when he threatened to arrest <b>§ 87(2)(b)</b> stating, "Could you shut your fucking mouth, because if you keep talking like that, you're going to be arrested soon," in violation of Patrol Guide Procedure 110-01.  C:) Lt. Pearson was discourteous when he told <b>§ 87(2)(b)</b> to, "Shut the fuck up," in violation of Patrol Guide Procedure 104-01  D:) Lt. Pearson used excessive force when he shoved <b>§ 87(2)(b)</b> in violation of Patrol Guide Procedure 104-01.				Recommendation(s): <b>§ 87(2)(g)</b>  <b>§ 87(2)(g)</b>  <b>§ 87(2)(g)</b>  <b>§ 87(2)(g)</b>

### Summary of Complaint

On August 2, 1998, at approximately 5:00 PM, in the vicinity of Prospect Park in Brooklyn, Mr. § 87(2)(b) was walking with § 87(2)(b) when they were approached by PO Dennedy, who shouted, "Do you have a beer in that bag?" § 87(2)(b) claims he was carrying a bottle of Pepsi inside a paper bag. PO Dennedy asked § 87(2)(b) for his I.D. While PO Dennedy checked his identification for warrants, § 87(2)(b) became upset and began to demand it back. § 87(2)(b) argued further, and PO Dennedy responded, "You know, that's what's wrong with you damn people, you are all alike." § 87(2)(b) states that PO Dennedy also called him a, "Nig." After he was arrested and taken to the 78<sup>th</sup> precinct, § 87(2)(b) spoke with the desk sergeant, Lt. Pearson, and was told by him, "You have the right to shut the fuck up." Lt. Pearson asked § 87(2)(b) to turn around, but § 87(2)(b) states that he was afraid, so he did not immediately comply. He states that Lt. Pearson then shoved him around.

### Results of Investigation

When he was asked if he was carrying a beer, § 87(2)(b) states that he replied, "No. Why are you asking me if I have a beer in my bag, do you see a beer?" § 87(2)(b) states that PO Dennedy responded, "No, that's why I'm asking. Hold on a second, if that's a beer, you know I can give you a summons." § 87(2)(b) replied, "Well, you don't see a beer, you see a paper bag that's completely covered." PO Dennedy then explained that he was doing his job. PO Dennedy asked § 87(2)(b) for his I.D. § 87(2)(b) asked if he was being issued a summons. PO Dennedy told him no. § 87(2)(b) gave him his I.D. After a few minutes, § 87(2)(b) asked PO Dennedy what he was waiting for. PO Dennedy explained that he was waiting for the radio to check his I.D. for warrants. After a few more minutes, § 87(2)(b) became irate, and explained that he was tired of waiting, saw no reason for PO Dennedy to detain him, and wanted to leave. He then asked PO Dennedy if there were personal reasons for why he was being detained. When asked if he was acting aggressively toward PO Dennedy, § 87(2)(b) states, "I wouldn't say aggressive, (pause) I would say steadfast."

§ 87(2)(b) states that PO Dennedy told him that a patrol car was being sent to the scene. § 87(2)(b) approached the officer and stuck out his hand for his license, and asked the PO Dennedy, "What are you harassing me for?" PO Dennedy asked § 87(2)(b) if he wanted to be locked up. § 87(2)(b) states that he, "got upset," and said he would not be locked up for no reason, and he stated, "I'm not going to jail." PO Dennedy told § 87(2)(b) to calm down. § 87(2)(b) states that he said, "You're the one who needs to calm down." At this point, § 87(2)(b) states that PO Dennedy replied, "You know, that's what's wrong with you damn people, you are all alike." § 87(2)(b) states that PO Dennedy said, "Nig," but also states, "It sounded like he was getting ready to say the word." He states that he said it quietly, and that no one else heard it, except for § 87(2)(b).

§ 87(2)(b) states that after he was arrested and taken to the precinct, he asked Lt. Pearson, who was working as the desk officer, why he was being arrested, and if he could make a phone call. He was told to be quiet, but continued to ask questions. Lt. Pearson told § 87(2)(b) "You have the right to be quiet," and "You have the right to shut up," and "you have the right to shut the fuck up." Lt. Pearson asked § 87(2)(b) to turn around, but § 87(2)(b) states that he was afraid, so he did not immediately comply. He states that Lt. Pearson then shoved him around. He states that he kept turning around. § 87(2)(b) did not claim any injury, nor did he seek any medical attention from this shove.

§ 87(2)(b) states that PO Dennedy never actually looked inside the bag to verify if the contents were, in fact, Pepsi.

§ 87(2)(b) states that she and § 87(2)(b) were on their way to Prospect Park. § 87(2)(b) was carrying a bag with a bottle of cherry Pepsi inside. As they reached the entrance of the park, PO Dennedy approached them, and asked § 87(2)(b) if he was carrying a beer inside the bag. § 87(2)(b) replied, "Why?" to which PO Dennedy repeated his question. § 87(2)(b) told him that he did not have a beer. PO Dennedy then asked § 87(2)(b) for identification.

§ 87(2)(b) replied, "Yes, I have I.D., but why do you want my I.D.?" PO Dennedy said, "Do you have any warrants?" § 87(2)(b) said, "Are you going to write me a summons? Why? You didn't even look to see what I have in the bag yet." § 87(2)(b) states that PO Dennedy said, "Keep on talking, and you're going to be arrested soon." § 87(2)(b) asked for his identification back several times. The officer told § 87(2)(b) "Could you shut your fucking mouth. Because if you keep talking like that, you're going to be arrested soon." § 87(2)(b) became upset, and began to argue with PO Dennedy, explaining that he hadn't committed any crimes. § 87(2)(b) states that § 87(2)(b) began to cry. § 87(2)(b) states that PO Dennedy used his radio to call for backup. § 87(2)(b) states that as she heard the sirens of approaching police cars, PO Dennedy became more aggressive with § 87(2)(b). The officer stated, "Turn around!" as he took out his handcuffs, and then said, "You Niggers are all the same. You all act the same. You are such a fucking idiot. You should have just kept quiet."

PO Dennedy states that he noticed § 87(2)(b) and his girlfriend walking with what appeared to be a 40 ounce bottle of Guinness Stout. PO Dennedy states that he could tell by the color and shape of the bottle that it was a beer bottle. He approached § 87(2)(b) and asked him if he had a beer. PO Dennedy states that § 87(2)(b) rolled his eyes and said, "No, it's a soda." PO Dennedy asked § 87(2)(b) to take the bottle out of the bag. § 87(2)(b) replied, "You don't have the right to tell me to take it out of the bag." PO Dennedy asserted that he did, in fact, have the right to do so. PO Dennedy states that § 87(2)(b) then removed a 40 ouch bottle of Guinness Stout from the bag. PO Dennedy asked § 87(2)(b) for identification, which § 87(2)(b) produced. While PO Dennedy was preparing to run the numbers over the radio, he states that § 87(2)(b) exclaimed, "I can tell you're intimidated by me, I can tell you're not used to dealing with black people." PO Dennedy told him to sit down. § 87(2)(b) then got up, and said, "No, I'm tired of wasting my time here, I want my I.D. back now." PO Dennedy states that he said, "Listen, have a seat, or you'll find yourself in handcuffs." He states that § 87(2)(b) waved his hands and replied, "You ain't cuffing me! You try to cuff me here. You ain't cuffing me." PO Dennedy states that he felt threatened, so he called a 10-85 (Need Additional Unit). PO Dennedy states that when the back up arrived, he cuffed Mr. Dennedy, who, "struggled a little," by not allowing him to cuff his wrists. He states that a Sergeant came to the scene, and verified the arrest. PO Dennedy states that he searched § 87(2)(b) and found a metal folding barber's knife in his waistband. He states that § 87(2)(b) was removed to the 78<sup>th</sup> precinct, where Lt. Pearson was on the desk. PO Dennedy states that § 87(2)(b) was saying, "I'm going to have your job for this, I'm going to have your badge. I know a lot of police officers." He states that § 87(2)(b) was placed in a cell. PO Dennedy denies using racial language to talk with § 87(2)(b). He denies that § 87(2)(b) asked him if the reason he was being stopped was because he was black.

PO Dennedy states that he accompanied § 87(2)(b) inside the precinct. He states that § 87(2)(b) was yelling at him inside the precinct. He states that Lt. Pearson told § 87(2)(b) "You have the right to remain silent, so shut up." He states that § 87(2)(b) was screaming, "What am I being arrested for?" He states that Lt. Pearson got up and walked around the desk, and frisked § 87(2)(b) for a second time before he was placed in the cell. He states that Lt. Pearson did not tell § 87(2)(b) to, "Shut the fuck up." He states that he is positive that Lt. Pearson did not use profanity.

PO Dennedy states that a few days after the incident Lt. Pearson told him that § 87(2)(b) was wanted on a federal warrant, a warrant which was called in subsequent to § 87(2)(b) release. He states his New York Driver's License has a false date of birth.

Lt. Pearson does not recall any specifics surrounding the booking of § 87(2)(b). Lt. Pearson did make a command log entry for the arrest of § 87(2)(b) (enclosed.) Lt. Pearson states that in most instances, he would not come around the desk to frisk someone. Lt. Pearson states that if the arresting officer was alone, or if the arrested person got out of hand, or if that person was emotionally disturbed, then he would come around the desk. He states that in most cases there are several other officers available to help. He states that he would come out in exceptional circumstances. He states that he doesn't recall the individual, and doesn't think he came around the

desk, but that there is a possibility that he did come around the desk. He states that if the person were injured, or if they had assaulted an officer, he would have come around the desk. Lt. Pearson stated that if he left the desk that it would not necessarily be noted in the command log. However, he can not say with total certainty whether he left the desk. He does not recall coming from behind the desk. He states that, "when you have a young officer, usually there might be a tendency to assist them." Lt. Pearson states that he did not tell § 87(2)(b) to, "shut the fuck up."

### Conclusions and Recommendations

Allegation A.) *PO Dennedy used offensive language when he called § 87(2)(b) a, "Nig," or "Nigger" and when he said, "That's what's wrong with you people..." in violation of Patrol Guide Procedure 104-01*

§ 87(2)(b) partially discredited his own allegation at the time of his interview at CCRB. He states that PO Dennedy did not say, "Nigger," but an abbreviated form, "Nig." When questioned about exactly what he heard, he then goes on to say, "It sounds like he was getting ready to say the word." § 87(2)(g)

After his own interview, § 87(2)(b) would not allow this investigator to contact the witness § 87(2)(b) insisting that he would contact her. § 87(2)(b) refused to provide her phone number, or address. This Investigator was unable to contact her without § 87(2)(b). She was interviewed 6 weeks after the complainant.

§ 87(2)(b) quotes PO Dennedy as saying to § 87(2)(b) "You Niggers are all the same. You all act the same. You are such a fucking idiot. You should have just kept quiet." She claims that PO Dennedy said this as the back-up cars approached, and PO Dennedy was attempting to cuff § 87(2)(b). However, § 87(2)(b) states that that PO Dennedy said this earlier, as they were still arguing. In § 87(2)(b) version, the use of, "nigger" has been combined with the phrase of, "you people are all the same," to become, "you Niggers are all the same." She continues, stating that PO Dennedy added, "You are such a fucking idiot." § 87(2)(b) did not mention the use of the word, "idiot," or "fucking idiot."

PO Dennedy denied that he used any offensive or discourteous language

§ 87(2)(g)

B:) *PO Dennedy abused his authority when he threatened to arrest § 87(2)(b) stating, "Could you shut your fucking mouth, because if you keep talking like that, you're going to be arrested soon."*

§ 87(2)(b) and § 87(2)(b) provide slightly different versions of how PO Dennedy is alleged to have threatened to arrest § 87(2)(b). § 87(2)(b) states that PO Dennedy said, "Could you shut your fucking mouth, because if you keep talking like that you're going to be arrested soon." § 87(2)(b) contradicts § 87(2)(b) who states that PO Dennedy said, "You're going to be locked up," but makes no mention of the use of the word, "fucking." PO Dennedy admits that he said, "Listen, have a seat, or you'll find yourself in handcuffs," but illustrates while he felt threatened by § 87(2)(b) aggressive tone and manner at that point.

§ 87(2)(b) states that he became very upset after PO Dennedy took his driver's license. § 87(2)(b) states that he became irate, explained that he was tired of waiting, and saw no reason for PO Dennedy to detain him. § 87(2)(g)

§ 87(2)(b) PO Dennedy said § 87(2)(b) was making threatening motions with his arms. § 87(2)(b) admits that he reached for his license. § 87(2)(b) admits that he said to the officer, "What are you harassing me for?" while standing in front of PO Dennedy, who had asked him to remain seated. § 87(2)(g)

§ 87(2)(g)

Allegation C.) Lt. Pearson was discourteous when he told § 87(2)(b) to, "Shut the fuck up," in violation of Patrol Guide Procedure 104-01

While Lt. Pearson does not recall any specifics of the arrest or, "booking" of § 87(2)(b) PO Dennedy states that he did hear Lt. Pearson tell § 87(2)(b) to, "Shut up." § 87(2)(b) states that he asked Lt. Pearson why he was being arrested and if he could make a phone call, and was told to shut up several times. He states that he continued to ask questions after he was told to shut up. He states that at this point, he was told to, "Shut the fuck up." Both § 87(2)(b) and PO Dennedy agree that Lt. Pearson used the phrase, "Shut up." § 87(2)(g)

§ 87(2)(g)

Allegation D.) Lt. Pearson used excessive force when he shoved § 87(2)(b) in violation of Patrol Guide Procedure 104-01.

Both § 87(2)(b) and PO Dennedy state that Lt. Pearson came around from behind the desk and made physical contact with § 87(2)(b) prior to having him placed in a cell. § 87(2)(b) says that Lt. Pearson asked him to turn around, and when he refused, physically grabbed him and shoved him around. PO Dennedy says that Lt. Pearson came from behind the desk and frisked § 87(2)(b) Lt. Pearson does not recall any specifics of the incident. However, he does note that in unusual circumstances, it is possible that he would come around from behind the desk. While Lt. Pearson said he did not think he came around the desk in this case, he did not rule it out.

§ 87(2)(g)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Brian Meyer

Date:

Dec 9, 1998

Reviewed by:

Date: